

# Supreme Court of Kentucky

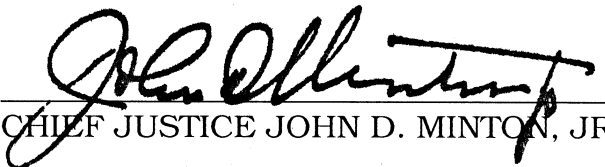
## ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND  
PROCEDURE FOR THE 18TH JUDICIAL CIRCUIT, FAMILY  
COURT DIVISION, HARRISON, NICHOLAS, PENDLETON, AND  
ROBERTSON COUNTIES**

Upon recommendation of the Judges of the 18th Judicial Circuit, and  
being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 18th Judicial Circuit,  
Family Court Division, Harrison, Nicholas, Pendleton, and Robertson counties,  
are hereby approved. This order shall be effective as of the date of this Order,  
and shall remain in effect until further orders of this court.

Entered this the 22nd day of March 2012.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF COURT  
PRACTICE AND PROCEDURE  
COMMONWEALTH OF KENTUCKY**

**18<sup>th</sup> JUDICIAL CIRCUIT  
FAMILY COURT DIVISION  
Harrison\*Nicholas\*Pendleton\*Robertson Counties**

Revised 11/25/11

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## **RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE**

### **101 Preface**

These are the Uniform Rules of Court Practice and Procedures of the 18<sup>th</sup> Judicial Circuit Court, Family Division. These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative 18<sup>th</sup> Judicial Circuit Family Court Rules. All previous rules adopted by the 18<sup>th</sup> Judicial Circuit Family Court are hereby rescinded.

### **102 Effective Date**

The effective date of these rules shall be thirty (30) days after Kentucky Supreme Court approval.

### **103 Citation**

These Rules shall be cited as 18<sup>th</sup> J.C.FCR.

### **104 Holidays**

Holiday schedules may be obtained at the AOC website: <http://courts.ky.gov/>.

## **RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING**

### **201 Regular Motion Hour Schedule**

#### PENDLETON COUNTY

Monday – 1<sup>st</sup> and 3<sup>rd</sup>

8:45 A.M. Uncontested Final Hearings  
9:00 A.M. Civil, Divorce Actions, Motion Dockets  
10:00 A.M. Domestic Violence  
11:30 A.M. Child Support  
1:00 P.M. Resume Child Support  
1:30 P.M. Juvenile Cases\* Arraignments First  
2:30 P.M. OTHER, Re-Set Contested Cases

#### ROBERTSON COUNTY

Tuesday – 1<sup>st</sup> and 3<sup>rd</sup>

10:00 A.M Everything is set for this time

#### NICHOLAS COUNTY

Tuesday -1<sup>st</sup> and 3<sup>rd</sup>

1:00 P.M. Temporary Motions, Uncontested Divorces  
Domestic Violence Hearings  
Child Support Cases  
2:30 P.M. Juvenile Cases \*  
3:00 P.M. Any Contested Matters

**HARRISON COUNTY**

Wednesday – 1<sup>st</sup> and 3<sup>rd</sup>

8:45 A.M. Uncontested Final Hearings  
9:00 A.M. Civil, Divorce Actions, Motion Dockets  
10:00 A.M. Domestic Violence  
11:30 A.M. Child Support  
1:00 P.M. Resume Child Support  
1:30 P.M. Juvenile Cases \* Arraignments First  
2:30 P.M. OTHER, Re-Set Contested Cases

\*Adoptions are to be set at this time.

(Schedule subject to change due to Holidays and other scheduling conflicts)

**202 Deadline for Serving and Filing Motions**

All Motions are to be heard on a Rule day and shall be filed by 4:00 p.m. on the date of filing deadline with notice to the other parties and/or Counsel. Court schedules including rule days and filing deadlines may be retrieved from the Circuit Clerks Office or by contacting Judicial Secretary. Emergency matters may be set by contacting Family Court Staff.

**RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS**

**301 Temporary Custody Order**

Temporary Custody Orders granted pursuant to KRS 199.473(7) shall be SEALED, and not opened to inspection by persons other than the parties to such proceedings and their counsel.

**302 Setting a Final Hearing for Adoption**

The attorney may file a motion to set a final hearing date after the Cabinet for Health and Family Services report has been received by the Court. The attorney for the petitioner shall prepare the final paperwork for the review of the Court. The final paperwork shall include: Motion, Affidavit, and Order for Attorney's fees, the Findings of Fact and Conclusions of Law; and the Judgment with only the child's new name in the caption.

**303 Final Hearing**

Petitioner/s should be present for the final hearing. Any child being adopted who is over the age of twelve (12) years shall be present at the final hearing in order to give his/her consent to the adoption.

## **RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol is attached hereto in Appendix 1 and incorporated herein by reference as if set out in full.

### **401 Change of Venue in Domestic Violence Cases**

If a petition is filed in one county in the 18th Judicial Circuit and it is discovered that a dissolution/custody proceeding is pending in another county or another venue; it is within the discretion of the Family Court Judge as to whether the petition shall be transferred to the other county or venue.

### **402 Motions to Amend**

Motions to amend Domestic Violence Order's shall be set and heard in the appropriate Family Court at the next available Motion Docket after the motion is filed.

## **RULE 5 PATERNITY**

There are no local rules pertaining to Paternity. For uniform statewide family court rules see FCRPP 14 and 15.

## **RULE 6 DEPENDENCY, NEGLECT AND ABUSE**

### **601 Petition**

- A. All petitions shall be filed in accordance with FCRPP 20(1). Prior to filing the petition with the clerk, the petition shall be submitted to the respective County attorney, who shall check the petition for legal sufficiency. If the petition is approved, the county attorney shall initial the petition for filing. If the Petition is rejected by the County attorney, it shall be submitted to a Family Court judge for determination of legal sufficiency. If the judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the petition shall be dismissed. If the petition is approved, the assistant county attorney or judge, as appropriate, shall initial the petition for filing. A copy shall be distributed to the county attorney assigned to prosecute dependency actions and the original shall be filed with the Office of the Circuit Court Clerk.

- B. Any petition filed with this Court shall comply with the following conditions:
1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
  2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents.

## **602 Guardians ad Litem**

Attorneys desiring to be added to Guardian ad Litem list must complete appropriate GAL training and observe at least one session of Dependency, Neglect and Abuse Court. They then may be added to list where Circuit Clerk will assign according to a rotating schedule.

## **603 Duty of Guardian ad Litem and Parent Attorney to Continue**

After a Guardian ad Litem or parent attorney accepts an appointment, representation shall continue through all stages of the dependency, neglect, abuse, or termination of parental rights and adoption proceedings. All parties shall be served with notice of an attorney's request to withdraw.

## **604 Dispositional Hearing**

At the dispositional hearing, CHFS shall provide the court with the information required pursuant to FCRPP 28 by completing form DNA 12. In addition, if the siblings have been separated, CHFS shall explain the reasons for the separation.

# **RULE 7 DOMESTIC RELATIONS PRACTICE**

## **701 Divorce Education Program**

In all new divorce cases where there are children and there is no agreement on custody arrangements, parties may be required to attend a Parenting Education Clinic before motions will be heard.

## **702 Uncontested Matters**

Attorneys or Parties must file a written request to proceed under FCRPP (3)(1) and said request will only be granted under extraordinary circumstances. All other uncontested cases shall be properly noticed for the next regular motion docket with at least one party present to give testimony.

## **703 Verified Disclosures**

The final verified mandatory case disclosure (AOC-239) must be filed in all cases and may be sealed at attorneys' or parties' written request.



## **704 Final Hearings**

A final hearing shall not be held unless Rule 703 is fully complied with. The Decree shall contain language appropriate to fulfill the mandates of the Kentucky Revised Statutes. The Final Decree shall incorporate but not re-state the terms of the Separation Agreement. All Findings in support of the Final Decree whether contested or uncontested shall be typed and presented by the Petitioner on AOC Form #245.

## **705 Status Quo Order**

Pursuant to FCRPP 2, Status Quo Orders (AOC-237) may be issued at the initial hearing and upon written Motion.

## **706 Mediation**

### **A. Mediation**

If ordered by the court pursuant to FCRPP 2(6), the parties shall engage in mediation unless the exceptions provided under KRS 403.036 apply.

### **B. Requirements for Mediation**

1. Parties are to meet with their attorney prior to mediation and if parties have not complied with FCRPP (9)(4) and provided sufficient income information their mediation may be cancelled.
2. Attorneys may be present at said mediation but can be requested to allow mediation outside their immediate presence.
3. Any Mediation Agreement shall be signed by the parties and counsel if counsel is present. If counsel is not present, any complaint concerning an agreement can be raised by appropriate Motion.
4. When mediation does result in an agreement, the Court shall Order the parties to carry out the terms of said agreement.
5. Neither party nor any attorney present shall record the mediation in any manner and all matters discussed shall remain confidential and shall not be utilized in any manner.
6. Mediators shall not be subpoenaed regarding the disclosure of any matter discussed during the mediation which is considered confidential. This privilege and immunity resides with the mediator and may not be waived by the parties.
7. Unexcused failure to show up for mediation once it has been ordered by Court and/or failure to participate in good faith may result in appropriate legal sanction. Parties will be required to sign and abide by Rules of Mediation. (See Appendix #2)

## **RULE 8 STATUS OFFENSES**

There are no local rules pertaining to Status Offense cases. For statewide uniform rules for see FCRPP 37 to 44.

## **RULE 9 MISCELLANEOUS**

### **901 Identification of Counsel or Party Required**

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address and telephone number of the attorney or party signing the paper.

### **902 Visitation Guidelines**

Attorneys and parties may agree to utilize the 18<sup>th</sup> Judicial Circuit Local Visitation/Shared Parenting Guidelines. (See attached Appendix #3.)

### **903 Compliance with Rules**

All parties whether represented by counsel or proceeding Pro se must comply with these Rules, the Kentucky Rules of Civil Procedure and all applicable Statutes.

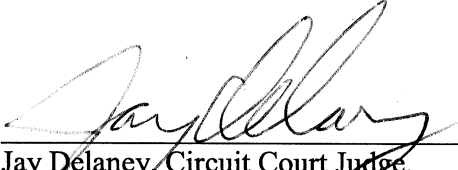
### **904 Concerning Children in Courtroom**

Unless otherwise authorized by statute or rule of court, in concern for the sensibility of children, the parties are directed to keep all children out of the Courtroom and to bring them to Court only when necessary to the litigation in process.

### **905 Concerning Cell Phones and Other Electronic Devices**

All cell phones and electronic devices are to be turned off in the Courtroom at all times.

 /Date 3-16-2012  
Barbara Paul, Family Court Judge,  
18<sup>th</sup> Judicial Circuit

 /Date 3-16-12  
Jay Delaney, Circuit Court Judge,  
18<sup>th</sup> Judicial Circuit

**APPENDIX 1**  
**TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY**  
**PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION**  
**DOMESTIC VIOLENCE PROTOCOL**  
**18<sup>TH</sup> JUDICIAL CIRCUIT AND DISTRICT**  
**HARRISON, NICHOLAS, PENDLETON AND ROBERTSON COUNTIES**

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

**I. Uniform Protocol for Processing Cases**

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.
- D. Domestic violence cases are civil matters within the purview of CR 41.01. Therefore, this jurisdiction does not have a "no-drop" policy.
- E. Domestic violence cases shall be reassigned or transferred to another circuit at the discretion of the Family Court Judge. An EPO may be assigned to another county when venue in that county is more appropriate and/or convenient, in which case, the issuing Judge shall continue reissuing the EPO/summons until the matter can be heard by the Judge in the other county, in accordance with FCRPP 12 and KRS 403.740(4) for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

**II. Twenty-four Hour Accessibility**

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Harrison County -

Cynthiana Police Department  
Harrison County Sheriff's Department  
Harrison County Attorney's Office  
Harrison Circuit Clerk's Office

	Victims Advocate Kentucky State Police
Nicholas County -	Carlisle Police Department Nicholas County Sheriff's Department Nicholas County Attorney's Office Nicholas Circuit Clerk's Office Victims Advocate Kentucky State Police
Pendleton County -	Falmouth Police Department Pendleton County Sheriff's Department Pendleton County Attorney's Office Pendleton Circuit Clerk's Office Victims Advocate Kentucky State Police
Robertson County -	Mt. Olivet City Police Officer Robertson County Sheriff's Department Robertson County Attorney's Office Robertson Circuit Clerk's Office Victims Advocate Kentucky State Police

B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Harrison County -	Cynthiana Police Department Harrison County Sheriff's Department Victims Advocate Kentucky State Police
Nicholas County -	Carlisle Police Department Nicholas County Sheriff's Department Victims Advocate Kentucky State Police
Pendleton County -	Falmouth Police Department Pendleton County Sheriff's Department Victims Advocate Kentucky State Police
Robertson County -	Mt. Olivet City Police Officer Robertson County Sheriff's Department Victims Advocate Kentucky State Police

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

The Circuit Clerk shall deliver the appropriate documents to the Family Court Judge, if available. If the Family Court Judge is not available, the Circuit Clerk shall deliver the documents to the "on call" Judge (District or Circuit) or the "on call" Trial Commissioner, unless a Circuit Judge, District Judge, or Trial Commissioner is readily available in the County where the petition is filed.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The "on call" Judge (District or Circuit) or the "on call" Trial Commissioner.

E. Petitions will be reviewed within an hour of presentation to a Judge or Trial Commissioner unless it is impossible due to the unavailability of a Judge or Trial Commissioner.

F. The schedule for domestic violence hearings is as follows:

Pendleton Family Court – 1<sup>st</sup> and 3<sup>rd</sup> Mondays at 9:00 A.M.  
Robertson Family Court – 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays at 10:00 A.M.  
Nicholas Family Court – 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays at 1:00 P.M.  
Harrison Family Court – 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays at 9:00 A.M.

(And other Special EPO hearing days scheduled to meet the 14 day rule)

### III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings should contact the County Attorney or Assistant County Attorney on call.

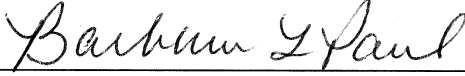
C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.


All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all Judges in the circuit/ district.

Dated this 16<sup>th</sup> day of March, 20 12.

  
Jay Delaney, Circuit Court Judge,  
18<sup>th</sup> Judicial Circuit

  
Barbara Paul, Family Court Judge  
18<sup>th</sup> Judicial Circuit

  
Charles W. Kuster, Jr., District Court Judge  
18<sup>th</sup> Judicial District

## **APPENDIX 2**

### **18<sup>th</sup> JUDICIAL CIRCUIT FAMILY COURT DIVISION**

## **RULES OF MEDIATION**

The parties herein have been ordered to participate in Mediation as provided by the Family Court Staff at no charge to the parties. Mediation is a process, somewhat less formal than other Court hearings but, it shall be conducted consistent with the Local Rules of the 18<sup>th</sup> Judicial Circuit Family Court and the Mediation Guidelines for Court of Justice Mediators, AP XII as hereafter set out.

1. The parties shall negotiate fairly and honestly throughout the Mediation process and mediate in “good faith” in the attempt to resolve their case. Violation of this rule may result in Contempt of Court.
2. The parties should consult with their attorneys before attending the Mediation and be prepared to sign an agreement, if a resolution is reached.
3. The Mediator will direct the mediation process in an impartial and neutral manner.
4. The Mediator has no authority to force a settlement on the participants and does not provide legal advice or representation.
5. All information disclosed during the mediation, either written or verbal shall be treated as confidential (with the exception of new allegations of spouse abuse, child abuse or neglect, or threats of harm to any person and except the violation of Rule 1 or Rule 9 herein).
6. The Mediator shall not release information discussed during mediation, and parties waive all rights to call the Mediator as a witness in any pending or subsequent litigation or compel production of documents acquired during the mediation process.
7. The Mediator shall destroy any notes or other writings from the mediation, except the Mediation Agreement itself.

8. The Mediator may terminate the mediation if it becomes evident that there is failure to participate in "good faith" on the part of any party that no progress is being made or after 3 hours has elapsed.

9. Parties may speak directly to each other if it can be done in a civil and respectful manner. There will be no yelling, cursing, or name calling during mediation. Violation of this rule may result in Contempt of Court.

I have read and understand the foregoing Rules of Mediation and agree to go forward with Mediation and abide by these Rules.

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mediator

\_\_\_\_\_  
Date

# **APPENDIX 3**

## **LOCAL TIME-SHARING/VISITATION GUIDELINES**

### **COMMONWEALTH OF KENTUCKY 18TH JUDICIAL CIRCUIT HARRISON, NICHOLAS, PENDLETON AND ROBERTSON COUNTIES VISITATION SCHEDULE AND RULES FOR VISITATION**

The following time-sharing / visitation schedule for the 18<sup>th</sup> Judicial Circuit should be used as a basis for determining a schedule that meets the needs of the family; and, should not simply be used as a default schedule when the parties are unable to agree. This minimum schedule for time-sharing / visitation may be applied to both a temporary visitation order and/or a final visitation order. The Court may or may not include any or all of the provisions of this schedule in the temporary or final visitation order. Liberal visiting arrangements are encouraged by the 18th Judicial Circuit Family Court, as contact with both parents is important to the children. You may also agree, and are encouraged to agree, to any additional visitation for your convenience, or that is beneficial to your child.

**VISITATION SHALL BE AT SUCH TIMES AND PLACES AS THE PARTIES MAY AGREE.** This will not normally be less than:

1. Weekends: Alternate weekends from Friday at 5:30 P.M. until Sunday at 6:00 P.M. for all children 12 months of age or older. If the child is less than 12 months of age, weekend visitation shall be from 10:00 A.M. to 6:00 P.M. on Saturday and Sunday.
2. Midweek: One evening each week, Wednesday 5:30 P.M. to 8:30 P.M.
3. Holidays: In the odd-numbered years, the custodial parent has Easter and Christmas Day; and the noncustodial parent has July 4th, Thanksgiving, and Christmas Eve. In the even numbered years, the schedules are reversed. Memorial Day and Labor Day attach to the preceding weekend.
  - A. A holiday that falls on a weekend should be spent with the parent who would normally have the children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do not have to be made up.
  - B. Mother's Day and Father's Day shall be spent with the appropriate parent. Hours are as agreed, or 10:00 A.M. to 7:30 P.M.
  - C. Other days of special meaning, such as religious holidays, or national holidays, should be decided together, written into the Court Order, and alternated as above.
  - D. Hours for parents who cannot agree are as follows:  
Easter (10:00 A.M. to 7:30 P.M.)  
July 4th (9:00 A.M. to 9:00 A.M. the next day)



Thanksgiving (9:00 A.M. to 9:00 P.M. the next day)

Christmas Eve (9:00 P.M. on December 23<sup>rd</sup> to 9:00 P.M. on December 24<sup>th</sup>)

Christmas Day (9:00 P.M. on December 24<sup>th</sup> to 9:00 P.M. on December 25<sup>th</sup>)

4. Children's Birthdays: One-half day with each parent even if it falls on a regular visitation day.
5. Waiting: The children and custodial parent have no duty to await the visiting parent for more than 30 minutes of the visitation time. The parent who is late forfeits visitation for that period. The custodial parent, or acceptable representative, must be home at the return time to receive the child.
6. Cancellations: If the child is ill, the custodial parent shall give 24 hours notice, if possible, so appropriate plans can be made. The noncustodial parent shall give 24 hours notice to cancel. The time cancelled by the noncustodial parent is forfeited. The time lost due to the child's illness should be made up.
7. Vacations: Three weeks \*of visitation each year are to be arranged with advance notice by the noncustodial parent by May 1<sup>st</sup>. The custodial parent must give the noncustodial parent notice of vacations, or special plans for the child, to avoid planning conflicts, by May 15. Child Support obligation shall not abate during any visitation period.

\* (A week is seven straight days regardless of holidays, etc.)

A. Summer:

1. Summer school necessary for the child to pass to the next grade must be attended.
2. A general itinerary should be provided for the parent, if vacation will be out of town.

B. Spring and Fall Breaks shall be basically divided by the parties with the noncustodial parent having visitation commencing at 5:30 P.M. on the day the child is released from school until 5:30 P.M. on the day that would constitute an equal division of time provided that if any such break is for an odd number of days, the non-custodial parent receives the additional day

8. This schedule is an enforceable Order of the Court. Please put the interests of your child first and comply with the above provisions.
9. Rules for Visitation: Each parent is under an affirmative duty to foster the love and affection of the child for the other parent. Neither parent shall do or say anything that will interfere with the love and affection of the child for the other parent. Neither parent shall allow third parties to do or say anything to or in the presence of the child that will interfere with the love and affection of the child for the other parent. In addition to these general duties, neither parent shall:
  1. Have the child deliver money or messages from one parent to the other and thus place the child in the middle.
  2. Ask the child to tell false or misleading statements and thus, teach the child to lie.
  3. Quiz the child about what is going on at the other parent's home and thus turn the child into a spy.

4. Say unkind things about the other parent to the child or in the presence of the child.
5. Try to conduct parental business when exchanging the child for visitation.
6. Make any threats or start arguments with the other parent when exchanging the child for visitation.
7. Not to exert pressure and ask a child constantly directly or subtly, "Which of us do you really want to be with?" and thus place the burden on the child.
8. Allow the child to take control of visitation whenever he or she wants to do so .
9. Have the child refer to a future stepparent or a stepparent as "mother" or "father".
10. Eavesdrop on or interrupt the child's telephone conversations with the other parent.

Violation of these rules may affect or limit a parent's right to visitation or custody.